

9/17/97

## ADMINISTRATION

### CODE OF ETHICS: GENERAL CONDUCT

#### I. PURPOSE

To set forth in a comprehensive document a Code of Ethics to govern and guide the conduct of the University's governors, trustees, faculty and staff members.

#### II. ACCOUNTABILITY

Under the direction of the President, the University Vice President for Academic Affairs is to ensure compliance with this policy.

#### III. POLICY

##### A. Requirements:

1. This Code of Ethics shall be applicable to all members of the Boards of Governors and Trustees, officers (President and vice presidents), deans, academic department chairs, administration department heads, faculty and staff members including student employees.
2. Whenever a question arises concerning the implementation and applicability of this Code of Ethics, it is recommended that, prior to active participation, advice be obtained from the department chair or unit head of your school or operating unit and that continuing questions be referred to the appropriate dean, provost, or vice president and ultimately to the University Vice President for Academic Affairs (all of whom may seek the advice, as appropriate, of the University Counsel).
3. Faculty members are subject to University Regulation 3.83, which provides:

3.83a. In carrying out their University responsibilities and professional activities, faculty members may be presented with the opportunity of representing the interests of both the University and other individuals, organizations, or institutions. It is the policy of the University that all faculty members avoid any conflict of interest or appearance of conflict of interest, as defined by the provisions of the New Jersey Conflicts of Interest Law as well as the relevant Regulations and written policies of the University. Whenever a potential for conflict of interest exists, faculty members have an obligation to inform the University of the potential conflict through their department chairs or unit

heads and to consult with them to determine whether a conflict of interest actually exists and, if so, what appropriate steps may be required to eliminate the conflict.

3.83b. Faculty members must not represent, appear for, or negotiate on behalf of any individuals, organizations, or institutions outside the University in connection with any contract, grant application, cause, proceeding, or other matter pending before the University. Faculty members must not act on behalf of the University in any matter involving outside organizations in which they have decision-making authority or a direct or indirect financial interest that might reasonably be expected to impair objectivity or independence of judgment (ownership or control more than ten percent of the profits, assets, or stock in an outside organization shall automatically be regarded as constituting impairment of objectivity or independence of judgment). Faculty members must also inform the University through their department chairs or unit heads of their association, direct or indirect, with any outside organization with which the University has, or is actively negotiating for, contractual relationships, if that association includes decision-making authority or a direct or indirect financial interest that might reasonably be expected to impair objectivity or independence of judgment.

3.83c. Faculty members must not use or attempt to use their University positions to secure inappropriate privileges or advantages for themselves or others.

3.83d. Some examples of conflict of interest are as follows:

- (1) Orienting University research, teaching, or other University activity for inappropriate private advantage or, without disclosure to the University, to serve the needs of outside individuals, organizations, or institutions with which the faculty member is associated for financial gain.
- (2) Transmitting, without disclosure to and approval by the University, to outside individuals, organizations, or institutions with which the faculty member is associated for financial gain, or other inappropriate nonacademic use for financial gain or other private advantage, of University-sponsored work products, results, materials, records, or information that are not made generally available.
- (3) Undertaking for financial gain or other private advantage, and without permission from the University, either in the employment of oneself or in that of outside individuals, organizations, or institutions, contracted research or other similar contracted professional activity that the faculty member would normally engage in under University auspices.

(4) Participating in or influencing the purchase or lease of equipment, instruments, materials, or other items for University use from individual organizations, or institutions with which the faculty member is associated for financial gain without disclosure of the association to the University.

(5) Using University equipment, materials, services, students, or facilities without proper authorization, and compensation where appropriate, for the faculty member's own benefit or for the benefit of other individuals, organizations, or institutions with which the faculty member is associated for financial gain.

(6) Accepting gifts, favors, or services having value from individuals, organizations, or institutions seeking access to University facilities or programs, or with which the University does business, under circumstances that might reasonably be interpreted as an attempt to influence the recipient in the conduct of his or her duties.

3.83e. The University retains the right to require a faculty member to withdraw from any outside association that it judges to constitute a conflict of interest with the faculty member's obligations to the University. This right shall be exercised by the dean of the academic unit in which the faculty member is assigned. Before exercising this right, the dean shall provide the faculty member with an opportunity to demonstrate that no conflict of interest exists and shall seek advice from the unit committee of review. A faculty member who has been directed to withdraw from outside associations may appeal the decision of the dean to the campus provost, who will render a final decision.

3.83f. Notwithstanding the provisions of the New Jersey Conflicts of Interest Law, a faculty or staff member or his/her partners or any corporation or firm in which he/she owns or controls more than 1% of the stock, assets or profits may enter into a contract or agreement with the University, where the contract or agreement is for the development of scientific or technological discoveries or innovations in which the University has a property right, if the faculty or staff member receives approval to do so in accordance with the administrative procedure adopted for this purpose. (That procedure is set forth in a separate document appended hereto as Attachment A.)

4. In addition, governors, trustees, officers, faculty and staff members of Rutgers, The State University of New Jersey and student employees shall conform to the following general standards as provided below:
  - a. University governors, trustees, officers, faculty or staff members shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction, or professional activity which is in substantial conflict with the proper discharge of his or her duties in the public interest.

- b. University governors, trustees, officers, faculty or staff members<sup>1</sup> who engage in any particular business, profession, trade, or occupation which is subject to licensing or regulation by a specific agency of the State government shall promptly file notice of such activity with the University Vice President for Academic Affairs.
- c. University officers, faculty and staff members shall file secondary or outside employment forms with the University Vice President for Academic Affairs concerning negotiation, appearance or representation on behalf of any party other than the State in connection with any cause, proceeding, application, or other matter pending before any State agency.
- d. University governors, trustees, officers, faculty or staff members shall not use or attempt to use his or her position at the University to secure unwarranted privileges or advantages for himself, or others.
- e. University governors, trustees, officers, faculty or staff members shall not act in his or her official capacity in any matter wherein he or she has a direct or indirect personal financial interest which might reasonably be expected to impair his or her objectivity or independence of judgment.
- f. University governors, trustees, officers, faculty or staff members shall not accept any gift, favors, services or other things of value under circumstances from which it might be reasonably inferred that such gifts, services, or other thing of value was given or offered for the purpose of influencing him or her in the discharge of his or her official duties.
- g. University governors, trustees, officers, faculty or staff members shall not undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his or her objectivity and independence of judgment in the exercise of official duties for the University.
- h. University governors, trustees, officers, faculty or staff members shall not knowingly act in any way that might reasonably be expected to create the impression or suspicion among the public having knowledge of his or her acts that he or she might be or may be engaged in conduct violative of his or her trust as a University governor, trustee, officer, faculty or staff member.

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<sup>1</sup> The source of these provisions is state statute, N.J.S.A. 52:13D-16b and 52:13D-23(e).

5. No University governor, trustee, officer, faculty or staff member shall knowingly himself/herself, or by his/her partners or through any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock, or by any other person for his/her use or benefit or on his/her account, undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by any State agency, except any contract, agreement, sale or purchase which is permitted pursuant to the provisions of N.J.S.A. 52:13D-19 or N.J.S.A. 52:13D-19.2) as amended; or, in accordance with N.J.S.A. 52:13D-19.1, where the contract or agreement is for the development of scientific or technological discoveries or innovations in which the University has a property right, if the contract or agreement receives approval in accordance with the procedures set forth as an attachment to University Regulations 3.83f, a copy of which is appended hereto as Attachment A.
6. Members of the Boards of Governors or Trustees, as well as University officers, are also subject to the specific policy adopted by the Board of Governors on November 11, 1983, a copy of which is appended hereto as Attachment B.
7. All individuals governed by this code of ethics are required to comply with all of the provisions and requirements of the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et. seq., as amended, with certain Limited exceptions.<sup>2</sup>
8. These guidelines have been promulgated in recognition that under our democratic form of government, public officials and employees should be drawn from all of our society, that citizens who serve in government or its instrumentality cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officials and employees have a right to private interests of a personal, financial, and economic nature; that standards of conduct should separate those conflicts of interest which are unavoidable in a free society from those conflicts of interest which are substantial and material, or which bring government or its instrumentality into disrepute.

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<sup>2</sup> For example, the New Jersey Supreme Court has held that the law school faculty are exempted from the prohibition which would otherwise limit their ability to represent parties in their clinical practice with interests which are adverse to the State. See in re: Executive Commission on Ethical Standards, Re: appearances of Rutgers Attorneys, 116 N.J. 216 (1989).

9. This Code of Ethics is provided as a mandatory guideline and to call attention to all governors, trustees, officers, faculty and staff members and students of the University the potential for conflict of interests and the accompanying legal jeopardy involved.

By Direction of the President:

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University Vice President for Academic Affairs

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## ATTACHMENT A

Board of Governors Approved  
February 12, 1993

### FACULTY OR STAFF INVOLVEMENT WITH COMMERCIAL ENTERPRISE – CONTRACTS WITH THE UNIVERSITY

#### A. Introduction

There are times when a faculty or staff member's involvement with commercial enterprise may exceed the usual relationship developed as part of normal duties, in professional affiliations, or in a consulting role, and thus may not be covered by other provisions of University ethics regulations or policies, or by the University's patent and copyright policies. The propensity for such involvement has increased as the potential to develop commercial enterprises to market university research-based technology has increased. The University recognizes that such involvement can be and has been of significant benefit to the University, the faculty or staff member, the commercial entity, the general public, and the economy of the State of New Jersey and encourages worthwhile technology transfer.

Involvement with commercial enterprises also offers the potential for conflicts of interest and time, for inhibition of free exchange of information, and for interference with the faculty or staff member's primary allegiance to the University and its mission. This potential is most likely to exist when a proposed agreement closely relates to the faculty or staff member's area of academic work.

An essential part of the University's commitment to encouraging worthwhile technology transfer is protection of the University's integrity and its primary goals of education and open inquiry. Toward this end, this Section of the University's code of Ethics prescribes a disclosure and approval process for faculty or staff involvement with commercial enterprises wherein the faculty or staff member or a member of the faculty or staff member's family holds a financial interest of greater than 1% in any organization, firm, corporation or partnership which wishes to enter into a contract or agreement with the University. The policy recognizes the need for flexibility and the difficulty of anticipating all situations which may arise by leaving discretion to the University to interpret the policy and weigh the potential benefits to the University.

B. Review Procedure

1. Applicability. In order for the University to have an opportunity to evaluate carefully the benefits and burdens of a faculty or staff member's equity interest in a commercial enterprise which seeks to enter into an agreement with the University, all faculty members must request prior approval, in writing, from their Department Chair (or Director or unit head) when such an agreement is contemplated. Staff must request prior approval from their unit head. (The applicable procedure is more fully set forth in paragraph B.4.) Contracts or agreements for which approval must be sought include:

a. Ownership of substantial equity (greater than 1%) in a commercial enterprise that carries on business activities with the University; and

b. Ownership of substantial equity (greater than 1%) in a commercial enterprise by a member of faculty or staff member's immediate family, that wishes to carry on business activities with the University.

2. Disclosure and Information Requirement.

Faculty or staff requests for approval of such contracts or agreements shall disclose fully to the Department Chair (or Director or unit head) the following aspects of the affiliation:

- a. Nature of the relationship;
- b. Short and long-term commitment of time and effort;
- c. Financial aspects, including the extent of compensation, equity, and indirect and/or potential economic value;
- d. Expected benefit to the commercial enterprise;
- e. Expected benefits to the faculty or staff member, the University, the public and the State of New Jersey.
- f. The names of all other individuals who have an interest in the commercial enterprise.



3. Factor and Considerations. Consideration should be given to the following major issues when evaluating such requests from faculty or staff members:

- a. There should be prospective benefits to the faculty or staff member and the University;
- b. The relationship should not interfere with the faculty or staff member's primary obligation to his or her University appointment, nor should it undermine the academic integrity or the University.
- c. There must be no foreseeable inappropriate reorientation of academic program or student direction. Special attention must be given to protecting the intellectual property of students and in protecting students from performing work under any such contract or agreement which is out of proportion to the benefits received by the students for their performance of the work.
- d. There should be free access to the results of all research conducted at the University, subject only to reasonable restrictions related to protection of intellectual property.
- e. Except under extraordinary circumstances, holding of a line management position or participation in day-to-day operation within a commercial enterprise with which the University does or will do business should not be approved.
- f. Alternative arrangements, in which a conflict of interest does not exist, should be explored.
- g. Such contracts or agreements shall not be negotiated by the subject faculty member on behalf of the commercial enterprise.

4. Approval Procedure. Faculty shall submit a request for approval, accompanied by the required disclosures and information, to their Department Chair or director or unit head). In the event that the Chair finds the disclosure inadequate to evaluate the request, the Chair shall request further information. The information disclosed by the faculty member and a record of recommendation of the Department Chair on the faculty member's request shall be submitted to the Dean, ordinarily within thirty working days of receipt of the request for approval. In considering requests for approval of these contracts or agreement, the Chair or Dean may consult with representative faculty within the department to ensure that the request is consistent with departmental goals. The Dean shall forward his/her recommendation to the Vice President for Research for final decision. The Dean shall also forward his/her

recommendation to the Campus Provost who shall advise the Vice President for Research. The Vice President for Research may seek the advice of legal counsel, the Research Advisory Board, or an advisory committee which may be formed for such purposes, and/or the Executive Commission on Ethical Standards as warranted. The Vice President for Research shall ordinarily render a decision within six month of receipt of the request for approval of the proposed contract or agreement. In the event a proposed contract or agreement is disapproved, an appeal may be made to the University Vice President for Academic Affairs. Staff shall submit a request for approval to their unit head, who shall forward their recommendation through their superiors, ultimately to the Vice President for Research.

C. Usual Exemptions.

1. The following activities are generally exempt from the provisions of this Section unless they represent a potential conflict of interest, time, or allegiance with the faculty or staff member's University position. Such activities, however, remain subject to other applicable provisions of the New Jersey Conflict of Interest Law, N.J.S.A. 52:13d-12 et seq., the University's ethics regulations and policies:

- a. Minor Stock holdings (no more that 1%).
- b. Uncompensated service on boards of directors. The Department Chair (or Director or unit head) may also exempt compensated service on company boards if he or she finds that it does not conflict with the faculty or staff member's University position. In the event that the Department Chair finds there to be a substantial conflict issue, the Chair shall submit the matter to the full review procedures set forth in Section B.4.
- c. Ownership of or equity in a corporation used solely for the faculty members' consulting activities.

2. Faculty members on leave without pay or during unpaid summer months continue to represent Rutgers University in the eyes of the public. The provisions of the University's ethics regulations and policies are applicable during these periods. During these times, therefore, faculty members are still required to request approval for any contracts or agreements covered by this Policy.

D. Reports of University Board of Governors.

All contracts and agreements approved under this procedure shall be periodically reported to the University's Board of Governors following such approval.

E. Annual Review

1. Each faculty or staff member who has received approval for any arrangement under this section of the Code of Ethics during the preceding calendar year shall submit a summary of activities undertaken to his/her department chairperson by January 15<sup>th</sup> of the year next following such approval, and annually thereafter, with a copy to the Dean and the University Vice President for Academic Affairs. Department Chairs should closely monitor on-going relationships to ensure the minimizing of detrimental conflicts.

2. Following receipt of Department Chair's reports, the Deans shall review the arrangements of faculty members in their schools approved under this Section and prepare a report for the University Vice President for Academic Affairs. The report shall be submitted to the University's Board of Governors.

3. The annual summary of faculty and staff involvement with commercial enterprise under this section shall be made available by the University's Board of Governors to the Executive Commission on Ethical Standards, and to the Legislature as required by law.

ATTACHMENT B

UNIVERSITY REGULATIONS & PROCEDURES MANUAL  
BOOK 6 - ADMINISTRATIVE POLICIES AND PROCEDURES

SOURCE: Board of Governors

SECTION: 6.4.15.

ORIGINALLY APPROVED: 11/83

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6.4.15. University Policy on Conflict of Interest for University Officers and Members of the Governing Boards

It has been and shall continue to be the policy of Rutgers, The State University that all Board members and employees avoid any conflict of interest or appearance of conflict of interest, consistent with the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq., and pertinent University Regulations. In furtherance of that policy, the following rules are established:

A. Applicability. The policy set forth in this statement is applicable to all members of the Board of Governors, the board of Trustees, and any other boards, committee, or organization holding a position of authority over University affairs and practices. The policy is also applicable to all officers of the University.

B. Fiduciary Responsibility. Individuals serving the University shall at all times act in a manner consistent with their fiduciary responsibilities to the University. All decisions made by any individual shall be made solely on the basis of a desire to promote the best interest of the university and the public good. Particular care shall be exercised to assure that no detriment or appearance of detriment to the University's interests results from a conflict between those interests and any personal, financial or other interests which an individual may have.

C. Possible Conflicts of Interest. An individual is considered to have a possible conflict of interest when he/she or any "associate" or a member of his/her "immediate family" has either: (1) an existing or potential financial or other material interest which impairs -- or might appear to impair -- the individual's independence and objectivity of judgement in the discharge of his/her responsibilities to the University; or (2) the potential to receive a financial or other material benefit from knowledge or information confidential to the University and its interests. An individual is considered to have a conflict of interest when he/she or any "associate" has an interest or potential as defined in (1) and (2) above. One's "associates" include any person, trust, organization or enterprise of a business nature or otherwise) with respect to which the individual: (1) is a director, officer, employee, member, partner or trustee; or (2) has a financial or other interest which enables him/her to exercise control or significantly influence policy; or (3) has any other material associate: Ones "immediate family" includes his/her spouse, parents, children, siblings, or any other blood relative if the latter resides in the same household as the individual.

ATTACHMENT B

UNIVERSITY REGULATIONS & PROCEDURES MANUAL  
BOOK 6 - ADMINISTRATIVE POLICIES AND PROCEDURES

SOURCE: Board of Governors

SECTION: 6.4.15.

ORIGINALLY APPROVED: 11/83

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D. Disclosure.

(1) In the event the University is intending to or is considering any transaction for the University which involves a possible conflict of interest of a member of a board or an officer, such member or officer, at the first knowledge of the transaction, shall disclose fully the precise nature of the interest or involvement in accordance with (3) below.

(2) Each individual to who this policy applies shall file with the Secretary of the University an acknowledgement that he or she has read this Conflict of Interest Policy Statement. It is the responsibility of the individual to disclose the relevant information at an appropriate time.

E. Restraint on Participation. Any individual who has declared or been found to have a conflict of interest in any matter pending before a board, committee or the Administration of the University, or other body of which that individual is a member shall refrain from any participation in consideration or discussion of the proposed transaction, except that the individual shall not be barred from participation in consideration or discussion of a general nature even though the ultimate resolution of the discussion at some point the individual. The individual involved in a conflict of interest shall not vote on the matter, shall not be present at the time of voting unless the matter is in open session and shall not be counted in determining the quorum for such vote. The minutes of the meeting shall reflect the above. Where the matter presenting a conflict of interest is before an individual acting in a singular capacity, he/she must immediately disqualify himself/herself and refer the responsibility of that matter to his/her next superior officer, or alternate officer.

F. Uncertainly. Any individual who is uncertain about a possible conflict of interest in any matter may request the organization of which he/she is a member to determine whether a possible conflict prevails. Any uncertainty should be resolved against participation.

G. Interpretation. This policy statement is to be interpreted and applied in a manner that will best serve the interests of the University. This policy statement is to be interpreted and applied consistent with State law.